

REMARKS

Status of the Claims

Initially, Applicants would like to thank the Examiner for indicating that claims 1-9 appear allowable over the cited prior art of record.

Claims 1-9 are pending, with claim 1 being independent. Claims 10-18 have been cancelled as directed to withdrawn subject matter pursuant to the restriction requirement. Applicants have cancelled claims 10-18 without prejudice to or disclaimer of the subject matter contained therein and Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to the cancelled subject matter. Without conceding the propriety of the rejections, claims 5, 6 and 8 have been amended for additional clarity. Support for the claim amendments may be found throughout the specification. Therefore, no new matter has been added.

Applicants respectfully request the Examiner to reconsider and withdraw the outstanding rejections in view of the foregoing amendments and the following remarks.

Objection to the Specification

Applicants note that the Title of the Invention has been objected to as not descriptive. In the present response, the title has been amended to recite **METHOD FOR PREPARING A LITHIUM AND VANADIUM OXIDE OF THE $\text{Li}_{(1+x)}\text{V}_3\text{O}_8$ TYPE**. In view of the amended Title, Applicants respectfully request that the objection to the Title be withdrawn.

The Examiner has also objected to the Abstract of the invention, as allegedly introducing new matter because of minor typographical errors. The Abstract has been amended herein to correct the obvious inadvertent typographical errors.

In view of the amended Abstract, Applicants respectfully request that the objection to the Abstract be withdrawn.

Double Patenting Rejection

Claims 1-9 are provisionally rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1-9 of copending U.S. Patent Application No. 11/665,932.

Applicants believe that the present claims are patentable over claims 1-9 of copending U.S. Patent Application No. 11/665,932. However, to facilitate prosecution, Applicants have filed herewith a terminal disclaimer in view of U.S. Patent Application No. 11/665,932. Provisional obviousness type double patenting rejections are overcome upon filing a terminal disclaimer.

Applicants note that the filing of a terminal disclaimer is not to be construed as an admission of the propriety of the rejection on obviousness double patenting. The Quad Environmental Technologies Corp. v. the Union Sanitary District, 946F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991).

Accordingly, Applicants respectfully request that this rejection be withdrawn.

Rejections Under 35 U.S.C. § 112

Claims 5, 6, and 8 have been rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Without conceding the propriety of the rejections, claims 5, 6 and 8 have been amended for additional clarity. Applicants respectfully submit that in light of the amended claims the rejections under 35 U.S.C. § 112, second paragraph have been obviated and Applicants respectfully request withdrawal thereof.

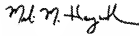
Conclusion

The art of record does not disclose or suggest the inventive concept of the present invention as defined by the claims.

In view of the foregoing amendments and remarks, reconsideration of the claims and allowance of the subject application is earnestly solicited. If there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned attorney to expedite prosecution of this application.

In the event any further fees are due to maintain pendency of this application, the Examiner is authorized to charge such fees to Deposit Account No. 13-2725 (70206.0049FPWO).

Respectfully submitted,



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